

Nov 29, 2023

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JENNIFER E. LAITINEN,

Plaintiff,

v.

DONALD J. TRUMP,

Defendant.

No. 2:23-CV-00332-SAB

**ORDER DISMISSING COMPLAINT;
GRANTING LEAVE TO FILE
AMENDED COMPLAINT**

On November 15, 2023, Plaintiff filed her Complaint, ECF No. 1, and an Application to Proceed In Forma Pauperis, which was granted by separate order. ECF No. 5. Plaintiff is representing herself in this matter.

Pursuant to 28 U.S.C. § 1915(e)(2), the Court must dismiss the action if the Court determines the action is frivolous, malicious or fails to state a claim on which relief may be granted. *See Lopez v. Smith*, 203 F.3d 1122, 1127 (9th Cir. 2000).

Plaintiff is suing former President Donald J. Trump. It appears, however, that the remedy she is seeking is to have the Court declare that he is ineligible to run for President because he participated in the January 6th insurrection to overturn the election.

January 9, 2024 is the deadline for each major political party to submit their final list of candidates. *See* <https://www.sos.wa.gov/elections/voters/helpful-information/presidential-primary-faq> (last visited November 29, 2023). It does not

1 appear any party has submitted their final list of candidates. *See*
2 <https://voter.votewa.gov/CandidateList.aspx?e=886&c=> (last visited November 29,
3 2023). Thus, it is not a certainty at this point that Mr. Trump will be listed as a
4 candidate for the March 12, 2024 Presidential Primary.

5 The judicial power of the federal courts is limited to “cases” or
6 “controversies.” U.S. Const., Art. III, sec. 2. As such, the Court is not permitted to
7 issue advisory opinions nor declare rights in hypothetical cases. *Thomas v.*
8 *Anchorage Equal Rights Commission*, 220 F.3d 1134 (9th Cir. 2000). Regardless
9 of whether the relief sought is monetary, injunctive, or declaratory, in order for a
10 case to be more than a request for an advisory opinion, there must be an actual
11 dispute between adverse litigants and a substantial likelihood that a favorable
12 federal court decision will have some effect. *See Calderon v. Ashmus*, 523 U.S.
13 740, 746 (1998).

14 Here, Plaintiff’s Complaint concerns a hypothetical, as it is not certain that
15 Mr. Trump will appear on the Washington presidential primary ballot. As such, the
16 Court does not have subject matter jurisdiction over Plaintiff’s Complaint, and it
17 must be dismissed.

18 Unless it is absolutely clear that amendment would be futile, a pro se litigant
19 must be given the opportunity to amend his complaint to correct any deficiencies.
20 *Rodriguez v. Steck*, 795 F.3d 1187, 1188 (9th Cir. 2015). As such, Plaintiff will be
21 given the opportunity to file an Amended Complaint that alleges sufficient fact to
22 state a claim.

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Accordingly, **IT IS HEREBY ORDERED:**

1. Plaintiff's Complaint, ECF No. 1, is **DISMISSED, without prejudice.**

2. Plaintiff is granted leave to file an Amended Complaint. The Amended Complaint must be filed on or before **January 3, 2024**. Failure to file an Amended Complaint will result in the dismissal of this action.

IT IS SO ORDERED. The District Court Executive is hereby directed to file this Order, provide copies to Plaintiff and set a case management deadline accordingly.

DATED this 29th day of November 2023.



Stanley A. Bastian

Stanley A. Bastian
Chief United States District Judge